

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNIVERSAL ENTERTAINMENT
 CORPORATION,

Plaintiff,

v.

ARUZE GAMING AMERICA, INC., et al.,

Defendants.

Case No. 2:18-cv-00585-RFB-NJK

Order

[Docket Nos. 672, 679]

Pending before the Court are two motions to seal. Docket Nos. 672, 679. The Court will address each motion in turn.

I. STANDARDS

The general presumption is that the public has the right to access judicial filings. *See, e.g., Nixon v. Warner Commc'ns Inc.*, 435 U.S. 589, 597 (1978). Certain types of documents are exempt from this presumption and have traditionally been kept secret. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). Ninth Circuit “case law has identified two categories of documents that fall in this category: grand jury transcripts and warrant materials in the midst of a pre-indictment investigation.” *Id.* The presumption of public access can, however, be overcome for documents not traditionally kept secret. *San Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1102 (9th Cir. 1999).

In determining whether to seal documents, the applicable standard “turns on whether the materials are submitted in conjunction with a dispositive or non-dispositive motion.” *Victory Sports & Ent., Inc. v. Pedraza*, 2019 WL 2578767, *1 (D. Nev. 2019). The sealing of dispositive motions and related documents is evaluated under a “compelling reasons” standard. *Kamakana*, 447 F.3d at 1179. *Id.* A party must support its motion to seal dispositive filings by “articulat[ing] compelling reasons supported by specific factual findings.” *Id.* at 1178. Sealing nondispositive

1 motions requires a “particularized showing” under a “good cause” standard. *Id.* at 1180 (citing
2 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1138 (9th Cir. 2003)).

3 **II. Docket No. 672**

4 On December 14, 2022, the Court denied Plaintiff’s motion asking to seal its response to
5 Defendants’ motion to compel Plaintiff to provide a complete response to AGA’s Interrogatory
6 Request No. 16. Docket No. 660 at 12; *see also* Docket Nos. 610 (motion to compel), 628 (motion
7 to seal), 629 (Plaintiff’s response). Plaintiff’s sole reason for seeking sealing was that Defendants
8 designated Exhibits 2, 4, and 5, and by extent the portions of Plaintiff’s response discussing those
9 exhibits, “Confidential” or “Highly Confidential.” Docket No. 628 at 2. Defendants failed to file
10 the requisite notice explaining why the relevant documents should be sealed and, therefore, the
11 Court ordered them to file a motion to seal the relevant documents no later than January 4, 2023.
12 Docket No. 660 at 9, 12. Defendants have now filed such a motion. Docket No. 672.

13 Defendants ask to seal Exhibits 2 and 3 and the portion of Plaintiff’s response that discuss
14 those exhibits. *Id.* at 2. Defendants also remove the “Confidential” designation from Exhibit 5 to
15 Plaintiff’s motion. *Id.* at n. 1. Defendants submit that good cause exists to seal the relevant
16 documents because they contain confidential business information, the release of which would
17 undermine Defendants’ bargaining position in business negotiations and their competitive
18 standing. *Id.* at 2 (citing Docket No. 520-1, ¶4). The Court has previously sealed similar
19 documents in this case. *See* Docket Nos. 660 at 3, 669 at 2. Accordingly, the Court finds that
20 good cause exists to seal Exhibits 2 and 4 and the portion of Plaintiff’s response that discuss those
21 exhibits.

22 **III. Docket No. 679**

23 On December 14, 2022, the Court denied Plaintiff’s motion to seal its motion to compel
24 production of RSM documents withheld under unsupported privilege claims and certain exhibits
25 thereto. Docket No. 660 at 12; *see also* Docket Nos. 572 (motion to compel), 573 (motion to seal).
26 Plaintiff’s sole reason for seeking sealing was that Defendants designated Exhibits 1, 2, 3, 4, 5, 6,
27 7, 9, 10, 11, 12, and 14, and the portions of Plaintiff’s motion discussing those exhibits
28 “Confidential” or “Highly Confidential.” Docket No. 573 at 3. Defendants failed to file the

1 requisite notice explaining why the relevant documents should be sealed and, therefore, the Court
2 ordered them to file a motion to seal the relevant documents no later than January 4, 2023. Docket
3 No. 660 at 8, 12. Defendants have now filed such a motion. Docket No. 679.

4 Defendants ask to seal Exhibits 1, 2, 4, 5, and 6 and the portions of Plaintiff's motion
5 discussing those exhibits. Docket No. 679 at 2. They submit that good cause exists to seal these
6 exhibits because they contain trade secrets, proprietary data, financial information, and
7 commercially sensitive business information, the release of which could result in competitive and
8 economic injury to Defendants. *Id.*; Docket No. 679-1 at 2. The Court has ordered similar
9 documents sealed in the past. *See* Docket Nos. 403 at 4, 415 at 2, 638 at 8, 660 at 2. Although
10 Exhibit 1 is a privilege log and does not itself contain the underlying sensitive information, the
11 Court has also previously ordered privilege logs sealed in this case because of the information that
12 can be derived from them. *See* Docket No. 660 at 3. The Court, therefore, finds good cause exists
13 to seal Exhibits 1, 2, 4, 5, and 6 and the portions of Plaintiff's motion discussing those exhibits.
14 Defendants' motion, however, does not discuss Exhibits 3, 7, 9, 10, and 11. *See* Docket No. 679.
15 Accordingly, the Court finds that good cause does not exist to seal those exhibits and the portions
16 of Plaintiff's motion discussing them.

17 IV. CONCLUSION

18 For the reasons discussed above:

19 1) Defendants' motion to seal Plaintiff's response to Defendants' motion to compel
20 Plaintiff to provide a complete response to AGA's Interrogatory Request No. 16 is **GRANTED**.
21 Docket No. 672.

22 2) Defendants' motion to seal Plaintiff's motion to compel production of RSM documents
23 withheld under unsupported privilege claims and certain exhibits thereto is **GRANTED** in part
24 and **DENIED** in part. Docket No. 679. Defendants' motion is **GRANTED** as to Exhibits 1, 2, 4,
25 5, 6, and the portions of Plaintiff's motion discussing those exhibits. Defendants' motion is
26 **DENIED** as to Exhibits 3, 7, 9, 10, 11, and the portions of Plaintiff's motion discussing those
27 exhibits.
28

1 Plaintiff is **ORDERED** to file a notice of compliance with the relevant documents attached,
2 redacted in accordance with the above findings, on the docket no later than **January 13, 2023**.

3 IT IS SO ORDERED.

4 Dated: January 6, 2023



Nancy J. Koppe
United States Magistrate Judge